

5/11/77 [2]

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THE WHITE HOUSE
WASHINGTON

May 11, 1977

Esther Peterson
Stu Eizenstat
Jack Watson

Re: Commerce Department Memo
on Agency for Consumer
Advocacy Strategy

The attached was returned in the
President's outbox and is forwarded
to you for your information and
appropriate action.

Rick Hutcheson

THE WHITE HOUSE
WASHINGTON

Mr. President:

The Commerce memo is not attached, as it is adequately summarized by the Peterson/Eizenstat/Frank memo. Frank Moore agrees that Peterson should be given the latitude to be flexible.

Rick

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

May 5, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

ESTHER PETERSON
STU EIZENSTAT
SI LAZARUS
JANE FRANK

SUBJECT:

Commerce Department Memorandum on
Agency for Consumer Advocacy Strategy

The Commerce Department offers recommendations regarding various details of the Agency for Consumer Advocacy legislation. Below are our joint comments on each of the points raised by the Department. Our general recommendation is that you give latitude to your consumer representative, Esther Peterson, working within the framework set by the decision memorandum and message on the ACA, in consultation with Secretary Kreps and others in the Administration, to negotiate with Congress, business and consumer groups, as the legislation proceeds through mark-up to what will inevitably be a hotly contested floor fight.

Our point-by-point comments follow:

I. Exemptions

1. Agriculture. Commerce recommends we support deletion of the provision in the House bill exempting USDA proceedings which affect raw agricultural commodities from the ACA's power to intervene. On the merits we would favor deletion of this exemption because of USDA's many actions in the food area which directly impact on the consumer. But Esther decided that the political situation requires that we take no position on the exemption, allowing Congress to work its will. She and the House sponsors believe that, without this exemption, the bill may not pass. Her judgment should govern. You should also know that Secretary

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Stu -
Truest
back Peterson - J
help when needed
J

Stu

ok

Bergland has reviewed the Commerce memorandum and has stated his "vehement opposition" to deletion of the agricultural exemption. He strongly favors exclusion of the USDA from the ACA bill.

Take no position, allow Congress to work its will on this point
(our recommendation) ✓

Support deletion of USDA exemption now in House bill (Commerce recommendation)

Oppose deletion of USDA exemption

2. Labor. We concur in Commerce's recommendation not to tamper with the partial labor exemption. The bill simply will not pass without this exemption. Unless you feel otherwise, we will leave the partial labor exemption alone. *ok*

II. Information Gathering

1. Commerce recommends OMB screening of ACA interrogatories. This is already the Administration's position, and Esther has persuaded the House committee to adopt it. She will urge the same amendment in the Senate. *ok*

2. Commerce urges that interrogatories state whether compliance is voluntary or mandatory. Interrogatories are by definition mandatory. The statement of whether compliance is voluntary or mandatory would be superfluous. On a second point raised here by Commerce, the decision whether answers would be publicly disclosed would turn on the contents of the answers, not the questions, and would be made in accord with standards (roughly equivalent to the Freedom of Information Act) already prescribed in the bills.

3. Commerce recommends "irreparable harm" as a basis for rejecting interrogatories. Such a standard would be legally inappropriate and politically inadvisable.

4. As noted above, the issue of public disclosure is covered by standards prescribed elsewhere in

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the bill. Commerce's recommendation to superimpose special confidentiality requirements here would impair the statutory scheme and is politically inadvisable.

III. Retroactive Intervention in Agency Proceedings

1. Commerce recommends that notice be given to the ACA of consumer-related proceedings. The legislation already contains such a requirement and we support the Commerce position.
2. Commerce recommends that the ACA notify the host agency that it will intervene. The legislation already contains such a requirement and we support the Commerce position.
3. Commerce recommends that the ACA be precluded from seeking reconsideration or court review of the agency decision, where the ACA did not participate in the agency proceeding. Esther has been negotiating with one trade group--the Food Marketing Institute representing grocery chains--on this point. Commerce's particular proposal about how to deal with the issue is too rigid but we are working on the finality question to see if a more flexible standard is appropriate. Esther should retain negotiating flexibility. ← agree

IV. Legal Standing of ACA in Agency Proceedings

1. Commerce recommends that the ACA be given the same subpoena power which private participants in agency proceedings enjoy. This is what the bill already provides and we support the Commerce position.

During the past months, Secretary Kreps has helpfully facilitated contact between business representatives and the Administration on the ACA issue. As noted above, Esther is now discussing some possible revisions in the bill as a quid pro quo for the support of one major trade association. But other groups, especially the Business Roundtable, continue in inflexible opposition, and would not give their support, even if all the recommendations made by Commerce here were adopted by the sponsors.

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THE WHITE HOUSE
WASHINGTON

Date: May 10, 1977

MEMORANDUM

FOR ACTION:

Les Francis

FOR INFORMATION:

*log in to
President
5-10-77
Done
RL*

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Esther Peterson, Stu Eizenstat, Si Lazarus,
Jane Frank memo 5/5 re Commerce Department
Memorandum on Agency for Consumer Advocacy
Strategy.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 5:30

DAY: TODAY

DATE:

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Bergland has reviewed the Commerce memorandum and has stated his "vehement opposition" to deletion of the agricultural exemption. He strongly favors exclusion of the USDA from the ACA bill.

Take no position, allow Congress to work its will on this point
(our recommendation) _____

Support deletion of USDA exemption now in House bill (Commerce recommendation) _____

Oppose deletion of USDA exemption _____

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"ACTION"

MEMORANDUM FOR THE PRESIDENT

From: *Grant H. Keas*
Secretary of Commerce

Subject: Business Concerns Relative to the Proposed Agency
for Consumer Advocacy

I am responding to your request for an elaboration of our April 15 comments on the proposed Agency for Consumer Advocacy (ACA).

Esther Peterson testified this week that the ACA's purpose is "to improve the way in which other agencies make rules, regulations and decisions by providing an advocate for consumer interests in the decision-making process." However, the language of the proposed legislation in some cases goes beyond that purpose.

The four general areas of concern to business are:

- Exemptions
- Information gathering
- Retroactive intervention
- Legal standing of ACA in agency proceedings

In addition, I suggest for your further consideration some modifications of certain of the Agency's powers which are intended to be consistent with the principal objectives of the ACA, yet might make the ACA more workable from the business point of view:

I. Exemptions

Business favors only those exemptions from ACA which would be necessary for national security. The exemptions for labor and agriculture are viewed as unwarranted because those sectors have as significant an impact on consumer prices as business itself.

Proposed Action:

1. Agriculture: Do not exempt.

- Programs directly affecting the price and availability of agricultural products should be covered.

2. Labor: Retain the exemption as in S.1262.

- This exemption covers only the National Labor Relations Board (NLRB) and Federal Mediation and Conciliation Service (FMCS). The regulatory programs or other activities of the Department of Labor such as OSHA and employment standards programs should be left subject to ACA.
- The Administration should make clearer to business the very limited nature of the labor exemption.

Pros and Cons of Proposed Modifications:

1. Elimination of Agricultural Exemption

Pros

- Because of the significance to consumers, it is consistent with the overall purpose of the Act for agriculture to be covered.
- It would be more equitable to the business community.

Con

- Agricultural interests will oppose.

2. Retention of Partial Labor Exemption

Pro

- The FMCS makes its services available to assist the parties in reaching agreements, but does not regulate their content. ACA intervention is not appropriate to settlement of agreements between private parties where Federal Government does not have a decision-making role.

Con

- Labor agreements do affect consumers.

II. Information Gathering

Business believes that the interrogatory section would:

- Create unnecessary paperwork.
- Require information not germane to legitimate consumer objectives.
- Raise difficult questions about what constitutes proprietary and confidential data which may be subject to publication.
- Give insufficient notice prior to publication of such data.

Proposed Action:

- ✓ 1. Provide that all interrogatories be submitted to OMB for approval.
2. OMB should determine whether or not the data sought should be treated as confidential and each interrogatory shall state whether
 - a. compliance is voluntary or mandatory;
 - b. the responses will be held confidential.
- mw 3. In addition to other defenses (such as "excessive burden"), business should be able to challenge interrogatories in the courts on the basis of "irreparable harm."
- mb 4. The ACA shall not publish nonconfidential information obtained by interrogatory identifying a person or product by name unless such publication is approved by the OMB in consultation with applicable Federal agencies. If publication is approved, any person identified shall be notified and given 15 days in which to comment or seek injunctive relief.

Pros and Cons of Modifications

Pros

- Introduces safeguards for business without unduly limiting the ACA information gathering authority.

- Without such a mechanism, the ACA, unlike other federal agencies, would operate outside of OMB review.
- Provides a more reasonable basis for challenging requests.
- Provides review and notice before publication of potentially harmful data.

Con

- Involvement of OMB will lead to some delays.

III. Retroactive Intervention in Agency Proceedings

Business is concerned that the ACA can challenge final decisions and thus keep open regulatory proceedings in which the ACA had not previously been a party.

Proposed Action:

- Each agency must notify the ACA of any proceedings in which the agency estimates there will be a significant consumer interest.
- The ACA should notify the agency whether the ACA will intervene in those proceedings.
- Failure to intervene, following proper notice by the agency, shall preclude the ACA from reopening a case by subsequent intervention.
- If the ACA does not receive notice by the agency of a proceeding, the ACA can reopen a case if it shows a substantial consumer interest.

Pros and Cons

Pros

- This retains substantial opportunity for ACA intervention but limits costly rehearings.
- This allows business to continue to rely on the finality of the administrative process.

Cons

- o Precluding ACA from intervening, after declining, reduces ACA's options.
- o Responding with intent to participate may become pro forma in many cases merely to protect ACA options, with a corresponding increase in paper-work.

✓ IV. Legal Standing of ACA in Agency Proceedings

The legislation gives the ACA greater power in agency proceedings than other parties. ACA would have effectively independent power equivalent to that of the applicable agency.

Proposed Action:

- o Limit the right of the ACA to utilize the discovery procedures (e.g., subpoena powers) of a host agency by giving that agency the right to review requests. As a safeguard for the ACA, denial of requests by the host agency should be grounds for immediate appeal in the courts, but such appeal shall not stay the proceeding.

Pros and Cons of Proposed ModificationsPro

- o This would prevent ACA from taking over the host agency's proceedings while ensuring that the consumer viewpoint is adequately considered.

Con

- o This limits the ACA's right to obtain information by requiring the concurrence of the host agency or a court appeal.

My staff and I will be pleased to work with Esther Peterson and your staff in preparing any amendments you deem appropriate.

Date: May 10, 1977

MEMORANDUM

FOR ACTION:

Les Francis

FOR INFORMATION:

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Esther Peterson, Stu Eizenstat, Si Lazarus,
Jane Frank memo 5/5 re Commerce Department
Memorandum on Agency for Consumer Advocacy
Strategy.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 5:30

DAY: TODAY

DATE:

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☒ I concur.

☐ No comment.

Please note other comments below:

*At this point in the legislative process
it is crucial that the lead person — Esther
Peterson — have the leeway and power necessary
to forge whatever acceptable compromises and coalitions
are necessary to secure passage of the legislation.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required
material, please telephone the Staff Secretary immediately. (Telephone, 7052)

FOR ACTION:
The Vice President
Midge Costanza
Stu Eizenstat
Hamilton Jordan
Jack Watson

286

FOR INFORMATION:
Bob Lipschutz
Frank Moore
Jody Powell
Joe Aragon
Hugh Carter
Richard Harden
Greg Schneiders

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Esther Peterson memo 5/3 re Consumer Advisory Council.

X: Camp
Lazarus
Rubenstein

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: NOON

DAY: WEDNESDAY

DATE: MAY 11, 1977

ACTION REQUESTED:

☒ Your comments

Other:

Watson
Hipschute
Harden } concur

STAFF RESPONSE:

☒ I concur.

☐ No comment.

Please note other comments below:

I concur but OMB may wish to announce this together with their efforts on other advisory committees for greater impact. Likewise while the Council is probably unnecessary in any event, there is a close question whether the Consumer Portection Agency will pass the House.

Stu Eizenstat

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

May 11, 1977

Bob Lipshutz:

Please convey the President's
message to the Attorney General.
Thanks.

. Rick Hutcheson

Re: Progress Report on Fight
Against Organized Crime
and Court Reform

cc: Stu Eizenstat
Jack Watson

THE WHITE HOUSE
WASHINGTON

To Bob -
Please convey Pres's message
to the AG.
Thanks
Roh

ACTION	FYI
	MONDALE
	COSTANZA
X	EIZENSTAT
	JORDAN
X	LIPSHUTZ
	MOORE
	POWELL
X	WATSON

ENROLLED BILL
AGENCY REPORT
CAB DECISION
EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND

ARAGON
BOURNE
BRZEZINSKI
BUTLER
CARP
H. CARTER
CLOUGH
FALLOWS
FIRST LADY
GAMMILL
HARDEN
HOYT
HUTCHESON
JAGODA
KING

KRAFT
LANCE
LINDER
MITCHELL
POSTON
PRESS
B. RAINWATER
SCHLESINGER
SCHNEIDERS
SCHULTZE
SIEGEL
SMITH
STRAUSS
WELLS
VOORDE

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

May 5, 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: ROBERT LIPSHUTZ AND MARGARET MCKENNA
SUBJECT: Summary of Attorney General's Progress
Report on Fight Against Organized Crime
and Court Reform

The Assistant Attorney General and Deputy Assistant Attorney General of the Criminal Division met last week with the 14 Strike Force Chiefs.. Although the evaluation of the federal organized crime program continues, they have decided that they should continue the general strategy of identifying figures in organized crime syndicates and targeting them for investigation and prosecution. However, in order to more efficiently use their resources, the program will identify those organized crime activities that are particularly harmful to society and concentrate efforts against those activities.

With respect to court reform, the Office for Improvements in the Administration of Justice has drafted a two-year program. The first major legislative proposal, a bill to increase the jurisdiction of U.S. Magistrates, will be submitted to Congress as soon as it receives OMB and White House clearance. That is expected within a week. Other projects have been commenced or assigned a priority. The most significant of these include:

1. Providing alternative dispute resolution procedures.
2. Developing legislation governing standing to sue in federal courts and transferring part of federal diversity jurisdiction to state courts.
3. Establishing procedures for judicial nominating panels for U.S. Courts of Appeals.
4. Developing a more equitable allocation of the costs of trial and appeal.

This is an interim report and no action is requested at this time.

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*Tell Griffin to
read TIME article
on MAFIA - & stamp
it out - J.C.*

DL

mmk



Office of the Attorney General

Washington, D. C. 20530

April 29, 1977

MEMORANDUM FOR: Rick Hutcheson
Staff Secretary to the President

FROM: Phil Jordan, Special Assistant
to the Attorney General *Phil Jordan*

SUBJECT: Court Reform Information
for the President.

Attached is a draft of the two-year program of the Office for Improvements in the Administration of Justice, headed by Assistant Attorney General Daniel Meador. There may be slight changes before this plan is released next week, but no significant ones.

The first major piece of legislation developed by the office--a bill to increase the jurisdiction of United States Magistrates and thus ease the congestion in United States district courts--is complete and will be submitted to Congress as soon as it receives OMB and White House clearance.

5/11



United States Department of Justice

OFFICE FOR IMPROVEMENTS IN THE
ADMINISTRATION OF JUSTICE

WASHINGTON, D.C. 20530

Draft 4-27-77.

A DEPARTMENT OF JUSTICE PROGRAM FOR
IMPROVEMENTS IN THE ADMINISTRATION OF JUSTICE

A two-year program to be pursued by the Office for Improvements in the Administration of Justice is outlined in the attached pages. The first page presents a summary statement of the goals of the program. Following that is a more detailed outline of the steps through which those goals will be pursued. This program draws upon a wide range of reports and studies which have appeared in recent years.

This is a beginning program. To an extent it is tentative and flexible, and it may be revised from time to time. Limited resources make it unlikely that every measure indicated will be fully pursued. On the other hand, new items are likely to be added as fresh insights emerge. However, the goals will remain fundamentally the same.

Some of the projects will be carried out entirely by OIAJ staff; others will be headed by OIAJ staff working with persons from elsewhere in the Department or with expert assistance from outside the Department. Some projects may be developed primarily by outsiders under the anticipated Federal Justice Research Program, administered by this Office.

Liaison will be maintained with professional groups, congressional staff, interested individuals and citizen organizations, other government agencies, and research entities. Continuing advice will be sought from these sources, and their assistance will be drawn upon in developing proposals. Collaborative efforts will be pursued where appropriate to the end that measures to improve the administration of justice will be soundly conceived and will have broad support. This is an action agenda. All measures proposed are aimed at concrete steps to achieve the stated goals.

Some subjects recognized as important and in need of attention are not included on this agenda because other offices or organizations have special mandates and competence to address them. These include, for example, the delivery of legal services,

grand jury reform, antitrust enforcement procedure, and reorganization of the Department of Justice.

For further information contact:

Daniel J. Meador
Assistant Attorney General (202) 739-3824

Ronald L. Gainer (on criminal justice matters)
Deputy Assistant Attorney General (202) 739-4601

Paul Nejelski (on courts and civil justice matters)
Deputy Assistant Attorney General (202) 739-4606

Draft 4-27-77

A DEPARTMENT OF JUSTICE
TWO-YEAR PROGRAM FOR IMPROVEMENTS IN
THE ADMINISTRATION OF JUSTICE

Summary Statement of Goals

- Goal I. ASSURE ACCESS TO EFFECTIVE JUSTICE FOR ALL CITIZENS THROUGH
- A. Alternatives to the courts
 - B. More effective courts
 - C. More effective procedures in civil litigation
- Goal II. REDUCE THE IMPACT OF CRIME ON CITIZENS AND THE COURTS THROUGH
- A. Substantive reforms in federal law
 - B. Procedural reforms in criminal cases
- Goal III. REDUCE IMPEDIMENTS TO JUSTICE RESULTING FROM SEPARATION OF POWERS AND FEDERALISM BY
- A. Coordination of the three branches of the federal government to plan for and improve the judicial system
 - B. Exploration of means of coordinating federal, state, and local efforts to improve justice
 - C. Reallocation of federal and state authority
- Goal IV. INCREASE AND IMPROVE RESEARCH IN THE ADMINISTRATION OF JUSTICE THROUGH
- A. The Federal Justice Research Program
 - B. A central, effective statistical agency for criminal justice
 - C. Development of proposals for new means of organizing and funding nationwide justice research

A DEPARTMENT OF JUSTICE
TWO-YEAR PROGRAM FOR IMPROVEMENTS IN
THE ADMINISTRATION OF JUSTICE

Goal I. ASSURE ACCESS TO EFFECTIVE JUSTICE FOR ALL CITIZENS

A. Alternatives to the Courts

1. Citizen dispute resolution

- *a. Plan and establish Neighborhood Justice Centers
- *b. Develop proposals for compulsory arbitration

2. Remedies

- *a. Propose federal and state programs for compensation of victims of crime
- b. Devise administrative remedies for victims of law enforcement excesses
- c. Assist in developing proposals for federal role in automobile no-fault
- *d. Develop alternatives to class actions as remedies for mass wrongs
- *e. Assist in developing legislation governing standing to sue in federal courts

B. More Effective Courts

1. Federal justice personnel

- *a. Perfect procedures and monitor performance of the new judicial nominating panels for the U.S. Courts of Appeals
- b. Encourage and study the use of judicial nominating panels at the District Court level
- c. Assist in developing proposals for disability and tenure commissions for federal judges

* Indicates project already commenced or assigned priority.

- d. Develop proposals for improving the selection and training of federal magistrates

2. Better designed court structures

- *a. Increase jurisdiction and monitor performance of federal magistrates
- *b. Develop judicial impact assessment of new legislation, in conjunction with the Office of Legislative Affairs
- c. Develop proposals for rationalizing and increasing the appellate capacity of the federal judiciary

3. Federal government representation in court

- a. Improve coordination and management of government litigation below the Supreme Court
- *b. Structure prosecutorial discretion
- c. Develop plans for case management and professionalization in U.S. Attorneys' Offices

4. Citizen participation in the courts

- *a. Improve compensation and treatment of jurors and witnesses
- b. Assist in reassessing the role and composition of juries in civil cases
- c. Assist in developing proposals to help participants with language problems

C. More Effective Procedures in Civil Litigation

1. Trial procedures

- *a. Improve class action procedures
- *b. Develop proposals for more equitable allocation of attorneys fees and court costs

- *c. Revise pretrial procedures, especially discovery, to reduce expense and delay and to increase fairness
- d. Make voire dire jury selection procedures fairer and more effective
- e. Revise procedures to deal with altered conceptions of the adversary system and its relation to current trends toward strong court role in case management

2. Appellate Procedures

- *a. Devise and evaluate experiments in subject matter panel assignments
- *b. Develop proposals to alter the economic incidents of civil appeals -- costs, interest rates, attorneys' fees -- for more equitable allocation and to discourage groundless appeals
- c. Devise and experiment with innovations in the presentation and decision of appeals
- d. Revise procedures to deal with new judicial role in case management and the increased use of professional assistance

Goal II. REDUCE THE IMPACT OF CRIME ON CITIZENS AND THE COURTS

A. Substantive reforms in federal law

- *1. Assist in revising the Federal Criminal Code
- *2. Assist in developing legislation on handgun control
- 3. Simplify and consolidate criminal sanctions in regulatory laws
- *4. Develop plans to improve prison conditions

B. Procedural reforms in criminal cases

- 1. Develop means other than the exclusionary rule for deterring illegal law enforcement activity and of providing redress for persons harmed by such activity

2. Develop proposals for a fair and effective system of review in criminal cases
 - *3. Develop sentencing guidelines and procedures, including relation of parole to sentencing
 - ? 4. Improve procedures for bail and release before trial and pending appeal
 5. Develop proposals for ameliorating the adverse impact of the Speedy Trial Act
 6. Commence long-range, fundamental reexamination of American criminal procedure
- C. Administrative coordination -- develop policies to focus criminal law efforts within and without the Justice Department

Goal III. REDUCE IMPEDIMENTS TO JUSTICE RESULTING FROM SEPARATION OF POWERS AND FEDERALISM

- *A. Coordination of the three branches of the federal government to plan for and improve the judicial system -- devise plan for a Federal Justice Council to include representatives from all three branches
- *B. Exploration of means of coordinating federal, state, and local efforts to improve justice -- consider National Justice Council with mixed federal and state representation to develop and implement national policy on justice
- C. Reallocation of federal and state authority
 - *1. Move portions of federal diversity jurisdiction to the state courts
 2. Develop policies for allocating primary responsibility for prosecuting conduct which is an offense under both state and federal laws
 3. Develop proposals for improved federal judicial review of state convictions

Goal IV. INCREASE AND IMPROVE RESEARCH IN THE ADMINISTRATION OF JUSTICE

- *A. Direct the newly created Federal Justice Research Program

- *B. Assist in devising final plans for a central, effective statistical agency for criminal justice
- *C. Assist in developing proposals for new means of organizing and funding nationwide justice research

UNITED STATES GOVERNMENT

Memorandum

Department of Justice

TO : The President

DATE: April 29, 1977

FROM : Russell T. Baker, Jr.

Deputy Assistant Attorney General, Criminal Division

SUBJECT: Organized Crime Program

The federal organized crime program has been through a difficult period. Its role, effectiveness, strategy, and leadership have been questioned, most recently by a highly critical GAO report. Some Strike Forces have been closed, morale has fallen, some good men have left the program, agency commitment has waivered, and the program has been generally adrift.

For the last six weeks the program has been under careful and thorough review by the new leadership in the Criminal Division of the Department of Justice. Discussions and meetings have been held with the participating agencies. The leadership of the Organized Crime and Racketeering Section of the Criminal Division has participated closely in this process. All 14 Strike Force Chiefs from around the country met with the new Assistant Attorney General and Deputy Assistant Attorney General of the Criminal Division for two days last week to exchange views.

Although our evaluation is not complete, we have decided on several things.

1. The federal organized crime program and the Strike Forces have a vital and essential mission, in conjunction with the United States Attorneys, in the continuing war that must be waged against organized crime.

2. There are smart, experienced, and dedicated prosecutors in the program who have the skill and the determination to fulfill that mission.



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

3. The program needs revitalization, leadership, support, some redirection, and a new spirit.

4. In order to increase its effectiveness, the program will shift its strategic emphasis. In the past the program's overall strategy has been to fight a broad-scale war of attrition on organized crime; through intelligence information figures in organized crime syndicates or "families" have been identified and targeted for investigation and prosecution. That strategy will be continued and such prosecutions will continue, especially where a major organized crime figure is involved.

5. The program's limited manpower and other resources, however, require a more focused and directed allocation of effort. Therefore, the program will identify organized crime activities that are particularly harmful to society, nationally and locally, and concentrate its efforts against those activities. Each Strike Force will be assigned specific objectives, and in certain cases some or all of the Strike Forces will act together in coordinated nationwide attacks on particular and appropriate national organized crime activities.

The necessary revitalization and redirection are already underway. The prosecutors in the organized crime program and the leadership and agents in the various participating agencies seem enthusiastic about a redirected and renewed effort on a consistent basis, rather than further prolonged attention to reorganization, reanalysis, and reevaluation.

In short, we are going to get on with it.

THE WHITE HOUSE
WASHINGTON

May 11, 1977

Frank Moore -

The attached was returned in the
President's outbox and is forwarded
to you for delivery to Senator
Kennedy.

Rick Hutcheson

cc: Z. Brzezinski for
forwarding to Secretary Vance
Peter Bourne

Re: World Health Organization

cc Bob Lincoln

THE WHITE HOUSE
WASHINGTON

5-10-77

To Ted Kennedy

I'm asking the State
Department to reassess its
stand on the WHO budget.
If the increases will go
to health & not admin-
istration, maybe we can
be more flexible.

Jimmy

cc: Vance

cc Vance
J

United States Senate

WASHINGTON, D.C. 20510

May 8, 1977

James A. Carter, Esquire
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear Mr. President,

I am delighted that your first official overseas visit is going so well. There has been considerable excitement here in Geneva in anticipation of your arrival. Everyone hopes that your meeting with President Assad will bring us closer to a lasting peace in the Middle East. I hope the Economic Summit meetings were productive, and I wish you well for your meetings next week.

I have been privileged to attend the 30th World Health Assembly of the World Health Organization and to have had the opportunity to address the delegates. I am deeply impressed with the new expression of faith in and support for your leadership. Your historic new commitment to human rights, and Secretary Vance's statement on health as a basic human right have restored the faith of developing nations in our country.

I believe that much of the good will and many of the hopes will be undermined by the State Department decision to overrule both HEW and Dr. Peter Bourne in instructing the American delegation to abstain during the vote to approve the 1978 WHO budget.

WHO is unique among the United Nations specialized agencies. The Director General, Dr. Halfdan Mahler, has the strong support of the membership and particularly of the U.S. delegation. He is committed to reducing the administrative structure and eliminating unsuccessful programs. He has already saved five million dollars of administrative money which he wishes to shift into the various programs. In the next four years he will have eliminated 313 headquarter posts - 25% of the total and 50 additional regional office administrative posts. To continue to effect this significant restructure of WHO will require firm support of the membership - particularly the U.S. In effect Dr. Mahler has already put into practice the State Department objectives for other U.N. specialized agencies. As such both he and his organization deserve special U.S. recognition, praise and support.

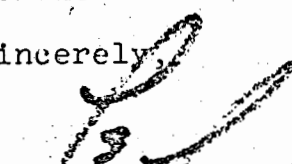
The new focus of WHO is on the developing nations. Their special goals include immunizing all the children of the world by 1990. This is entirely consistent with your new immunization initiative in the U.S.

The State Department objection to the proposed 12.1% increase in the WHO budget is based on the overall need to have U.N. specialized agencies eliminate waste, cut down administrative overhead and increase programmatic efforts. I agree with that objective. But the policy does not allow for flexibility -- it does not make it possible to reward, with our vote, an agency which has accepted and implemented the premises of our own policies. The U.S. delegation has carefully reviewed the rationale for the proposed increase and finds it fully acceptable to U.S. policy.

Mary King has attended many of the meetings I have arranged during these past two days. She, Dr. Bourne and the American delegation can reaffirm for you my conviction that a U.S. abstention on the budget proposal will seriously undercut the new confidence of the delegates from the developing world in our country, and will equally seriously undermine the morale of the U.S. delegation.

I sincerely hope you will re-examine this decision and build upon the enormous efforts you have already made to restore the confidence of the developing nations in the United States.

Sincerely,


Edward M. Kennedy

My very best to you.

THE WHITE HOUSE
WASHINGTON

May 11, 1977

Esther Peterson
Bert Lance
Jim King
Bob Linder

Re: Consumer Advisory Council

The attached was returned in the
President's outbox and is forwarded
to you for your information and
appropriate action.

Rick Hutcheson

*See memo
5/13 attached*

THE WHITE HOUSE
WASHINGTON

Mr. President:

Eizenstat, Watson, Lipshutz
and Harden concur.

Eizenstat suggests that this
be announced by OMB in con-
nection with the abolition
of other advisory committees.

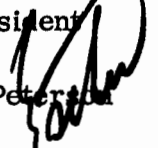
Rick

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

May 3, 1977

ACTION

TO: The President 
FROM: Esther Peterson
SUBJECT: Consumer Advisory Council

I recommend that the Consumer Advisory Council established under Executive Order 11538 be allowed to terminate when its charter expires May 31, 1977.

Secretary Califano concurs with this recommendation. Members of this, and former Council members with whom I've discussed the matter also concur.

The Council was first established by President Johnson and later re-established by Presidents Nixon and Ford. The new Consumer Protection Agency, when established, provides ample opportunity for consultation with independent citizen groups .

Approve ✓

Disapprove _____

Need More
Information _____



**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

Date: May 6, 1977

MEMORANDUM

FOR ACTION:

The Vice President
Midge Costanza
Stu Eizenstat - *attended*
Hamilton Jordan
Jack Watson *concur*

FOR INFORMATION:

Bob Lipshutz *concur*
Frank Moore
Jody Powell
Joe Aragon
Hugh Carter
Richard Harden *concur*
Greg Schneiders

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Esther Peterson memo 5/3 re Consumer Advisory Council.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: NOON

DAY: WEDNESDAY

DATE: MAY 11, 1977

ACTION REQUESTED:

☒ Your comments
Other:

STAFF RESPONSE:

☐ I concur. ☐ No comment.
Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

May 3, 1977

ACTION

TO: The President
FROM: Esther Peterson
SUBJECT: Consumer Advisory Council

I recommend that the Consumer Advisory Council established under Executive Order 11538 be allowed to terminate when its charter expires May 31, 1977.

Secretary Califano concurs with this recommendation. Members of this, and former Council members with whom I've discussed the matter also concur.

The Council was first established by President Johnson and later re-established by Presidents Nixon and Ford. The new Consumer Protection Agency, when established, provides ample opportunity for consultation with independent citizen groups .

Approve _____

Disapprove _____

Need More
Information _____

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

CHARTER

Consumer Advisory Council

Purpose

On February 24, 1971, the President issued Executive Order #11583 establishing the Office of Consumer Affairs because "there is need for a consumer office within the Executive Office of the President, which not only advises and represents the President on matters of consumer interest, but also analyzes and coordinates the implementation of all Federal activities in the field of consumer protection, helping to establish priorities and resolve conflicts, and recommending ways in which governmental consumer programs can be made more effective."

Under the same Executive Order, the President also established the Consumer Advisory Council, a 12-member body of citizen consumer experts appointed by the President to advise the Director of the Office of Consumer Affairs on consumer policy matters and the effectiveness of Federal programs affecting consumers.

Pursuant to Executive Order #11702 issued January 25, 1973, the Office of Consumer Affairs, together with its functions, was transferred from the Executive Office of the President to the Department of Health, Education, and Welfare.

Authority

Executive Orders #11583, #11702, and #11948. The Consumer Advisory Council is governed by provisions of the Federal Advisory Committee Act (PL 92-463) which sets forth standards for the formation and use of advisory committees.

Function

The Consumer Advisory Council advises the Director, Office of Consumer Affairs, concerning:

- (1) policy matters relating to consumer interests;
- (2) the effectiveness of Federal programs and operations which affect the interests of consumers; and

(3) problems of primary importance to consumers; and ways in which unmet consumer needs can appropriately be met through Federal Government action.

Structure

The Council consists of not more than 12 members appointed by the President on the basis of their knowledge and experience in areas of interest to consumers and their demonstrated ability to exercise independent, informed, and critical judgment. Members are appointed to serve overlapping two-year terms. The Chairman is designated by the President from among the members composing the Council. Management and staff services are provided by the Director, Office of Consumer Affairs, who is designated by the President as an ex-officio member of the Council and its Executive Secretary.

Meetings

Meetings of the Council are customarily held quarterly at the call of the Director. Meetings are open to the public except as determined otherwise by the Secretary; notice of all meetings is given to the public. Meetings are conducted, and records of the proceedings kept, as required by applicable laws and Departmental regulations.

Compensation

Members who are not full-time Federal employees are paid at the rate of \$75.00 per day, plus per diem and travel expenses in accordance with Standard Government Travel Regulations.

Annual Cost Estimate

Estimated annual cost for operating the Council, including compensation and travel expenses for members, but excluding staff support, is \$15,000. Estimate of annual man-years of staff support required is .50, at an estimated annual cost of \$10,000.

Reports

An annual report is submitted to the Secretary not later than June 30 of each year, which shall contain as a minimum a list of members and their business addresses, the dates and places of meetings,

and a summary of Council activities and recommendations made during the fiscal year. A copy of the report is provided to the Department Committee Management Officer.

Termination Date

Unless renewed by appropriate action prior to its expiration, the Council will terminate on ~~December 31, 1977~~
May 31, 1977.

APPROVED:

March 3, 1977
Date

Joseph L. Culp
Secretary

There should be
a common Protection
Agency by then.
JL

May 6, 1977

MEMORANDUM

FOR ACTION:

The Vice President
Midge Costanza
Stu Eizenstat
Hamilton Jordan
Jack Watson

FOR INFORMATION:

Bob Lipshutz
Frank Moore
Jody Powell
Joe Aragon
Hugh Carter
Richard Harden
Greg Schneiders

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Esther Peterson memo 5/3 re Consumer Advisory Council.

**YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:**

TIME: NOON

DAY: WEDNESDAY

DATE: MAY 11, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☒ I concur.

☐ No comment.

Please note other comments below:

I concur

*received
too late*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON
May 13, 1977

Esther Peterson
Bob Lipshutz
Stu Eizenstat

The attached is forwarded to you
for your information.

Rick Hutcheson

Re: Consumer Advisory Council

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

May 12, 1977

MEMORANDUM FOR:

RICK HUTCHESON

FROM:

ROBERT D. LINDER *Linder*

SUBJECT:

Consumer Advisory Council

Mrs. Peterson's memorandum to the President states that the Consumer Advisory Council terminates May 31, 1977 under Executive Order 11538.

The Council was extended until December 31, 1978 under Executive Order 11948, signed December 20, 1976, see copy attached. You may wish to bring this to the attention of the interested parties.

Federal Advisory Committees

Executive Order 11948. Dated December 20, 1976.
Released December 21, 1976

CONTINUANCE OF CERTAIN FEDERAL ADVISORY COMMITTEES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

SECTION 1. Each advisory committee listed below is hereby continued until December 31, 1978:

(a) Citizens' Advisory Council on the Status of Women—Executive Order No. 11126, as amended (Department of Labor).

(b) Committee for the Preservation of the White House—Executive Order No. 11145, as amended (Department of the Interior).

(c) President's Commission on White House Fellowships—Executive Order No. 11183, as amended (United States Civil Service Commission).

(d) President's Committee on the National Medal of Science—Executive Order No. 11287, as amended (National Science Foundation).

(e) Quetico-Superior Committee—Executive Order No. 11342, as amended (Department of Agriculture).

(f) National Health Resources Advisory Committee—Executive Order No. 11415, as amended (General Services Administration).

(g) Citizens' Advisory Committee on Environmental Quality—Executive Order No. 11472, as amended (Council on Environmental Quality).

(h) President's Council on Physical Fitness and Sports—Executive Order No. 11562, as amended (Department of Health, Education, and Welfare).

(i) Consumer Advisory Council—Executive Order No. 11583, as amended (Department of Health, Education, and Welfare).

(j) Advisory Council for Minority Enterprise—Executive Order No. 11625 of October 13, 1971 (Department of Commerce).

(k) President's Export Council—Executive Order No. 11753 of December 20, 1973 (Department of Commerce).

PRESIDENTIAL DOCUMENT

(1) President's Committee on Mental Retardation—Executive Order No. 11776 of March 28, 1974 (Department of Health, Education, and Welfare).

(m) Federal Advisory Council on Occupational Safety and Health—Executive Order No. 11807 of September 28, 1974 (Department of Labor).

SEC. 2. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act which are applicable to the committees listed in Section 1 of this order, except that of reporting annually to Congress, shall be performed by the head of the department or agency designated after each committee in accordance with guidelines and procedures established by the Director of the Office of Management and Budget.

SEC. 3. Executive Order No. 11868, as amended, establishing the President's Commission on Olympic Sports, is revoked effective January 16, 1977.

SEC. 4. (a) The following Executive orders are revoked:

(1) Executive Order No. 11667 of April 19, 1972, establishing the President's Advisory Committee on the Environmental Awards Merit Program.

(2) Executive Order No. 11809 of September 30, 1974, establishing the President's Labor-Management Committee.

(3) Executive Order No. 11860 of May 19, 1975, establishing the President's Advisory Committee on Refugees.

(b) Executive Order No. 11827, as amended, is superseded.

SEC. 5. This order shall be effective December 31, 1976.

GERALD R. FORD

The White House,
December 20, 1976.

[Filed with the Office of the Federal Register, 11:29 a.m.,
December 21, 1976]

THE WHITE HOUSE
WASHINGTON

May 11, 1977

Greg Schneiders -

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Foreign Policy Town Meeting

cc Landon Butler

THE WHITE HOUSE
WASHINGTON

Mr. President:

Jagoda & Costanza concur.
Brzezinski, Eizenstat and
Jordan recommend that any
foreign policy town meeting
be held outside of Washington.

Watson points out that the
National Town Meeting is
funded by Mobil Oil. Kraft's
opinion is that the trip
to Europe and the Notre Dame
speech are quite enough for
the Spring.

Rick

THE WHITE HOUSE
WASHINGTON

May 3, 1977

THE PRESIDENT HAS SEEN.

MEMORANDUM FOR: The President
FROM: Greg Schneiders *Greg*
SUBJECT: Foreign Policy Town Meeting

Dr. Brzezinski has proposed that you follow your foreign policy speech at Notre Dame with a town meeting on the same subject in order to build a grass roots constituency in this area. He has asked me to look for a suitable forum.

If you want to pursue this, such a forum exists and is convenient. It is the National Town Meeting at the Kennedy Center. This is a public service program which has for several years been fostering dialogue between government leaders and citizens on public policy. The audience would be drawn from a diverse cross section of visitors to the Nation's Capitol. Public Television would carry it; one or more of the networks might. We have a standing invitation.

Pursue it

Forget it

See me

J

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

Date: May 4, 1977

MEMORANDUM

Concur - good to share
w/ American people
- but OUTSIDE
of DC

FOR ACTION:

Midge Costanza

Jody Powell

Zbigniew Brzezinski

Barry Jagoda

Tim Kraft

FOR INFORMATION:

Stu Eizenstat

Hamilton Jordan

Jack Watson

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Greg Schneiders memo 5/3/77 re Foreign Policy Town Meeting.

President not looking for forums; trip to Notre Dame speech
are enough coverage for spring.

foreign policy matter should
be discussed in a
conservative area to get the
conservative support => to
help gain conservative
support in Congress

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: NOON

DAY: FRIDAY

DATE: MAY 6, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

FOR ACTION:

Midge Costanza
Jody Powell
Zbigniew Brzezinski
Barry Jagoda
Tim Kraft

FOR INFORMATION: Stu Eizenstat
Hamilton Jordan
Jack Watson

283

977 ~~PM 12 17~~ PM 12 17

yc Carr
Rosenstein

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Greg Schneiders memo 5/3/77 re Foreign Policy Town Meeting.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: NOON

DAY: FRIDAY

DATE: MAY 6, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☒ I concur.

☐ No comment.

Please note other comments below:

I concur and think it is a fine way to show Americans
that we want to share foreign policy with them. However,
I also feel that the forum should be outside Washington.

Stu Eizenstat

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material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Date: May 4, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza
Jody Powell
Zbigniew Brzezinski
Barry Jagoda
Tim Kraft

FOR INFORMATION: Stu Eizenstat
Hamilton Jordan
Jack Watson

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Greg Schneiders memo 5/3/77 re Foreign Policy Town Meeting.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: NOON

DAY: FRIDAY

DATE: MAY 6, 1977

ACTION REQUESTED:

☒ Your comments
Other:

STAFF RESPONSE:

☒ I concur. ☐ No comment.
Please note other comments below:

*Public television would probably carry it.
I have discussed it with their executives
and they are interested but not yet committed.*

Jagoda

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Date: May 4, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza

Jody Powell

Zbigniew Brzezinski

Barry Jagoda

Tim Kraft

FOR INFORMATION: Stu Eizenstat
Hamilton Jordan
Jack Watson

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Greg Schneiders memo 5/3/77 re Foreign Policy Town Meeting.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: NOON

DAY: FRIDAY

DATE: MAY 6, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

The President has said he's not
looking for forums - I think foreign policy
coverage of trip + Notre Dame speeches are
quite enough. coverage for this spring -
TK

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Date: May 4, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza
Jody Powell
Zbigniew Brzezinski
Barry Jagoda
Tim Kraft

FOR INFORMATION: Stu Eizenstat
Hamilton Jordan
Jack Watson

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Greg Schneiders memo 5/3/77 re Foreign Policy Town Meeting.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: NOON

DAY: FRIDAY

DATE: MAY 6, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

Rick--In a foreign policy Town Hall Meeting, topics like SALT, the Panama Canal, human rights, etc., are likely to come up. I think the President would do well to discuss these topics in a location that is perceived to be conservative. If the Town Hall Meeting were held in Oklahoma City, for example, the President could communicate to the nation that there are people outside of New York and Washington who think about foreign affairs, and he could show that his foreign policies can withstand the scrutiny of conservative citizens.

When the President takes his case to conservative states and is enthusiastically welcomed, members of Congress from those states will undoubtedly be impressed.



MEMORANDUM

THE WHITE HOUSE
WASHINGTON

May 6, 1977

MEMORANDUM FOR RICK HUTCHESON

FROM:

DAVID AARON 

SUBJECT:

Foreign Policy Town Meeting

With respect to the suitable forum for the proposed foreign policy town meeting (see attached Schneiders memo), we suggest the meeting be held outside Washington. As Dr. Brzezinski proposed to the President, this town meeting would be designed to appeal to the common man and to translate to the broader public what the President is attempting to do in the field of foreign policy. For this reason, a meeting outside of Washington -- perhaps in the south or southwest -- would be preferable to the forum Greg has suggested.

THE WHITE HOUSE

WASHINGTON

May 6, 1977

MEMORANDUM FOR: RICK HUTCHESON
FROM: BARRY JAGODA
SUBJECT: Foreign Policy Town Meeting

Please delete my previous comments re above
and substitute the following:

"I concur but urge that we negotiate with
this group to provide the most favorable
television--for example perhaps this should
be done in the evening--.

As long as the event is good--and this one
is--we will not be over-exposed."

#

Date: May 4, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza
Jody Powell
Zbigniew Brzezinski
Barry Jagoda
Tim Kraft

FOR INFORMATION: Stu Eizenstat
Hamilton Jordan
Jack Watson

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Greg Schneiders memo 5/3/77 re Foreign Policy Town Meeting.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: NOON

DAY: FRIDAY

DATE: MAY 6, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

The Human Rights Commission of the United Nations should be requesting this! A Town Meeting such as this reinforces our position on the important topic of human rights. I recommend this highly.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

greg -

Any comment on this?

Rich

Date: May 4, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza
Jody Powell
Zbigniew Brzezinski
Barry Jagoda
Tim Kraft

FOR INFORMATION: Stu Eizenstat
Hamilton Jordan
Jack Watson ✓

1977 MAY 4 PM 12 20

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Greg Schneiders memo 5/3/77 re Foreign Policy Town Meeting.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: NOON

DAY: FRIDAY

DATE: MAY 6, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

We believe that the National
Town Meeting is funded by
Mideast Oil. If so your
participation could be
criticized. Doing another town
meeting does not seem

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required
material, please telephone the Staff Secretary immediately. (Telephone, 7052)

to us very
important.
Watson/Frank

THE WHITE HOUSE
WASHINGTON

May 3, 1977

MEMORANDUM FOR: The President
FROM: Greg Schneiders *Greg*
SUBJECT: Foreign Policy Town Meeting

Dr. Brzezinski has proposed that you follow your foreign policy speech at Notre Dame with a town meeting on the same subject in order to build a grass roots constituency in this area. He has asked me to look for a suitable forum.

If you want to pursue this, such a forum exists and is convenient. It is the National Town Meeting at the Kennedy Center. This is a public service program which has for several years been fostering dialogue between government leaders and citizens on public policy. The audience would be drawn from a diverse cross section of visitors to the Nation's Capitol. Public Television would carry it; one or more of the networks might. We have a standing invitation.

Pursue it	_____
Forget it	_____
See me	_____

THE WHITE HOUSE
WASHINGTON

Date: May 11, 1977

MEMORANDUM

FOR ACTION:

Tim Kraft
Jody Powell

FOR INFORMATION:

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Jim Fallows memo 5/11/77 New York Times Book Review.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 4:00 P.M.

DAY: FRIDAY

DATE: MAY 13, 1977

ACTION REQUESTED:

Other: ☒ Your comments

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

*not sent in to President
Kraft will schedule*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE

WASHINGTON

May 11, 1977

MEMORANDUM FOR THE PRESIDENT

FROM:

JIM FALLOWS *JF*

SUBJECT:

New York Times Book Review

Three months ago I sent you a note about the publication of your book of campaign speeches. Michael Korda wanted you to do a variety of things to get publicity for the book; the one you agreed to was being interviewed, briefly, by the New York Times Book Review.

Now they are calling asking for an appointment. Your book is being officially published later this month, and to get an interview in the book review on time they need to see you within the next eight or ten days. Fifteen minutes would be enough. Can you see them?

cc.: JODY POWELL
TIM KRAFT

THE WHITE HOUSE
WASHINGTON
February 7, 1977

J

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: JIM FALLOWS JMF

ABOUT: Simon & Schuster Book of Speeches

Michael Korda of Simon and Schuster called today with three questions about publication and promotion of the book.

First, would you be willing to be interviewed by a few "respectable" journalists (eg, from the NY Times) about the book when it is published? Korda says that the Times Book Review would probably run an interview with you on its front page if you agreed.

☒ Yes

/ No

Brief

Second, do you plan to make any comment -- in person or through the press office -- about the book when it is published?

Yes

/ ☒ No

Third, when the subject comes up, do you want Simon and Schuster to give the full explanation about where the royalties go (that is, not only saying that they go to a foundation, but also explaining specifically what the foundation will do)? Korda thinks that either we should put out a statement here explaining that point, or we should give them all the details so they can explain.

Let them do it

/ We'll do it

/ Neither

get info from Lipschutz

cc.: JODY POWELL

Date: May 11, 1977

MEMORANDUM

FOR ACTION:

Tim Kraft ✓
Jody Powell

FOR INFORMATION:

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Jim Fallows memo 5/11/77 New York Times Book Review.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 4:00 P.M.

DAY: FRIDAY

DATE: MAY 13, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

Rick: we'll schedule 15 minutes
TK

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

May 11, 1977

Charles Warren
Stu Eizenstat
Jack Watson
Jim Fallows
Bert Lance

Re: Environmental Message

The attached was returned in the President's
outbox and is forwarded to you for your
information and appropriate action.

Rick Hutcheson

*cc Jan Welch
V.P. office
5/18/77*

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN.

INFORMATION

10 May 1977

TO: THE PRESIDENT
FROM: RICK HUTCHESON *RH*
SUBJECT: Decision Memorandum on Proposed
Environmental Message

Charles Warren's memorandum is attached. Comments from Eizenstat, Watson and Lance on specific proposals are interspersed throughout the memo at the appropriate point in the text. Other general comments:

1. WATSON. Warren's memo is excellent. We have only these suggestions:
 - a. that in explaining your environmental program you stress that the initiatives will save money by conserving precious resources.
 - b. recommend that a program to clean up the Potomac be added to the Message. This would be of enormous importance to area residents. Could we earmark some existing funds?

_____yes _____no _____explore the idea

2. EIZENSTAT. CEQ has done a good job of laying out the issues for an environmental message. Eizenstat concurs with Warren in all of the items labelled, "major proposals on which agencies agree." He adds that the political problems which arose from false alarms in the off-road vehicle and other issues are not present in the CEQ proposal.
3. LANCE. "I generally support the content of the Environmental Message."

Lance says he generally supports the budgetary commitments of the Message, with the exception of the proposed new categorical grant for state wildlife management.
(See OMB attachment on budgetary impact of the Message.)

Lance also directs your attention to the statements in the draft message which support new Federal regulation on environmental issues. (See OMB attachment on this.)

*To Charles
Sta
J*

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

April 22, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Charles Warren *CW*
Gus Speth
Marion Edey

SUBJECT: Environmental Message

The purpose of this memorandum is to inform you of the items that we recommend to you for inclusion in the proposed Environmental Message and to seek your approval of a number of major proposals. All components of the proposed Message have been reviewed by all relevant agencies and, with the exception of three issues, have uniform agency support.

We believe that the proposed Message is comprehensive, that it reflects the philosophy toward environmental quality you outlined during the campaign, and that it will be well-received by the Congress and the American people. No doubt a number of the proposals we are recommending will draw fire from special interest groups. We feel confident, however, that most people will view the Message as sound and responsible.

We believe that your environmental constituency extends well beyond those interested in the traditional categories of pollution control, parks, wildlife, and wilderness. Thus, in formulating the proposed Message we have included proposals on the health related aspects of pollution, including pollution of the workplace, on the urban environment, with emphasis on neighborhood conservation, on improving the effectiveness and efficiency of environmental planning and management, and on the environmental aspects of natural resource and energy development.

As of the date of this memorandum, the draft Message itself is being edited by your speechwriting staff, with assistance from Domestic Council and CEQ staffs. We expect that draft to be ready for your review by Friday, April 29.

A discussion of the content of the proposed Message follows in three categories: major proposals on which agencies agree; major proposals on which agencies disagree; other proposals on which agencies agree.

MAJOR PROPOSALS ON
WHICH AGENCIES AGREE

MAJOR PROPOSALS ON WHICH AGENCIES AGREE

1. Wilderness and Wild and Scenic Rivers: A proposal to submit to Congress five new wilderness areas, to propose enlargement of five others submitted by prior Administrations, to give early attention to three others, to add segments of seven rivers to the Wild and Scenic Rivers System, and to designate segments of 20 others for study as potential additions to the system.

We would like to begin work immediately with Frank Moore and Jack Watson to discuss each proposal with appropriate Congressmen and Governors. If problems should arise which we cannot resolve in the course of these discussions we would seek further guidance from you on specific proposals. Do you approve of this procedure?

☒ Approve

☐ Disapprove

☐ Other

2. National Heritage Trust: A proposal to direct the Secretary of Interior, in consultation with appropriate state and federal officials, to identify outstanding natural and historic areas and develop programs to protect them. These programs would include: long range planning, better interagency coordination, aid to the states, and government acquisition of the most significant and most endangered areas. The Secretary is directed to report his recommendations to you in four months.

☒ Approve

☐ Disapprove

☐ Other

3. Endangered Species: A proposal to direct federal agencies to complete in the shortest possible time their statutorily required responsibility to identify critical endangered species habitat. Early identification of such habitat will introduce a measure of stability into federal project planning because information on endangered species will be available at the outset. Your support of the Endangered Species Act would be in clear contrast with the low priority status given endangered species by the prior Administration.

☒ Approve

☐ Disapprove

☐ Other

4. Off-road Vehicles: This proposal has been the subject of considerable misunderstanding. We are not proposing to ban ORV's from the public lands. We are proposing two amendments to the existing executive order. The first amendment would clarify the agencies' discretionary authority under the existing order to close portions of the public lands temporarily, pending study as to whether they should be permanently designated as "open" or "closed". The second amendment would add a special provision to the executive

order that requires closure of ORV use areas if an agency head makes a determination that significant environmental damage to the public resource is occurring or will occur.

Secretaries Andrus and Berglund, whose agencies are most affected by the Executive Order, support these amendments. They are aimed at correcting serious problems on portions of the public lands that are suffering severe damage from overuse by ORV's.

Approve

Disapprove

Other

COMMENTS

WATSON. You may want to consider eliminating proposal #4. We fear that this initiative will become a red flag for opponents of the program, and we were told by Cecil Andrus about a month ago that he could do the things proposed under existing authority.

LANCE. While I do not oppose the regulation of off-road vehicle use on the public lands, I call your attention to this proposed restriction on agency head authority. The Executive Order would have the President be responsible for closure should a case be made that significant environmental damage is or will occur. This removes from agency heads any ability to make trade-offs between some environmental damage and some recreational or other benefits.

5. Mining Reform: A proposal to instruct the Secretary of Interior to develop new legislation replacing the antiquated "finders-keepers" system of the Mining Law of 1872 with a discretionary leasing system for hardrock minerals (e.g., gold, silver, iron, copper, lead, etc.). Coal, oil, gas, and phosphates, for example, are already developed under a leasing system. Secretary Andrus supports this proposal.

Approve

Disapprove

Other

6. Coal Leasing: A proposal to direct Interior to implement an affirmative program to manage federal coal lands in a manner consistent with environmental protection. This would involve determining which lands are appropriate to lease, completing land use plans before deciding to offer specific tracts for sale, and not leasing tracts where environmental impacts would be unacceptable or where the federal government would not receive fair market value. A related proposal would direct the Secretary to carefully evaluate existing leases and take necessary steps to deal with non-producing and environmentally unsatisfactory leases.

Approve

Disapprove

Other

7. Wetlands Executive Order: This executive order would direct federal agencies to refrain from supporting construction in wetlands unless no practicable alternative exists. Such an order would be an important element of a comprehensive wetlands protection program. The draft Message also includes related statements of support for the Corps of Engineers permit program regulating dredging and filling wetlands (an issue you decided earlier this month) and for legislation to increase the price of the "duck" stamp to provide additional revenue for wetlands acquisition.

Approve

Disapprove

Other

8. Floodplain Management Executive Order: This executive order would direct federal agencies to refrain from supporting development in floodplains unless no practicable alternative exists. This proposal could be a significant feature of your program to re-orient water resources policy. It would reinforce current federal policy, now honored too often in the breach, by preventing federal programs from subsidizing unwise floodplain development. Such development often becomes part of the justification for a dam or, if a flood occurs, becomes the basis for federal disaster relief funds to compensate for losses.

☒ Approve

☐ Disapprove

☐ Other

9. Forest Management Review: This proposal would direct the Secretary of Agriculture to undertake a comprehensive review of cooperative forestry programs with a view toward improving organization for and coordination of federal assistance, emphasizing multiple use management and environmental protection, and recommending new initiatives if needed.

☒ Approve

☐ Disapprove

☐ Other

10. Toxic Chemicals: We are proposing that the Message include support of vigorous implementation of the Toxic Substances Control Act, of giving high priority to developing 1983 standards for industry under the Federal Water Pollution Control Act which will provide control of toxics, of changing the FWPCA to improve EPA's ability to control toxic discharges, and developing complementary regulations under the Safe Drinking Water Act. The Message would also direct CEQ to head an interagency effort to design a coherent strategy to improve coordination and information flow among the seven different agencies currently implementing fifteen different statutes regulating toxic chemicals.

☒ Approve

☐ Disapprove

☐ Other

11. Health Effects of Energy Technologies: This proposal would direct the Administrators of ERDA and EPA, and the Secretary of HEW to undertake a continuing review to identify priority health effects issues and research needs for advanced energy technologies. Also proposed is a directive to the Administrators of ERDA and EPA to develop procedures within one year toward establishing environmental protection standards for new energy technologies.

☒ Approve

☐ Disapprove

☐ Other

12. Workplace Environment: In the past, the federal response to occupational health problems has been slow and inefficient, e.g., OSHA has only promulgated four sets of complete occupational health standards in the past seven years. We are proposing that you pledge to give the development of such standards a high priority. Other proposals in this area include support of strengthening amendments to the Federal Coal Mine Health and Safety Act and the Federal Metal and Non-metallic Mine Safety Act, and a pledge to examine the full-range of reforms that might be undertaken, at appropriate levels of government, to assure adequate compensation for occupationally induced diseases.

Approve

Disapprove

Other

COMMENTS

EIZENSTAT. If we are actually asking for an expansion of OSHA's efforts in the health area (where it has been wanting), we should put in some general language to show our sensitivity to the "over regulation" problem involving OSHA in the safety area.

*agree -
do so*

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13. Water Quality Enforcement: Looking toward the forthcoming Congressional review of the Federal Water Pollution Control Act, the Message includes proposed statements supporting the imposition of compliance fees on industries not abating pollution on schedule. This proposal would be similar to positions the Administration has taken with respect to the Clean Air Act.

☒ Approve

☐ Disapprove

☐ Other

14. Water Quality Management: This proposal would involve a strong statement in support for completing state and areawide water quality management plans and assure that local planning agencies have the authority to implement their plans. This program is aimed at the difficult problem of controlling pollution from "non-point" sources such as agricultural runoff. *sh*

15. Pest Management: Under current law EPA regulates 40,000 formulated pesticide products. This proposal would direct EPA to work with the Congress to change the focus of EPA's regulatory program to the 1,400 basic active chemical ingredients used in pesticides, thereby permitting speedier and more-efficient registration of desirable products and revocation of the registration of products which pose unwarranted risks. Another proposal is to instruct CEQ to recommend to you appropriate federal measures to encourage integrated pest management. CEQ has been working with the Department of Agriculture and EPA on a major assessment of integrated pest management, which will be completed in the near future.

☒ Approve

☐ Disapprove

☐ Other

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16. World Population Growth: This is a proposed statement that expresses concern about rapid growth of the world's population and indicates that the U.S. is prepared to be responsive to requests for assistance on population and health care problems. Many people believe that population growth is the world's number one environmental problem. This would be the first time in recent years that an American President has dealt with the issue publicly.

☒ Approve

☐ Disapprove

☐ Other

17. Whales: This proposal would direct the Secretary of Commerce to prohibit commercial whaling with our 200-mile fishing zone, to maintain U.S. support for a 10-year moratorium on whaling, and to report to you in 60-days on the effectiveness of the whale conservation program of the International Whaling Commission.

☐ Approve

☐ Disapprove

☐ Other

Do all agencies
incl Commerce agree
on a total prohibition?
If so - sk -
J

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OTHER PROPOSALS ON WHICH AGENCIES AGREE

1. National Trails: A proposal to designate three National Scenic Trails; to submit to Congress reports on two other trails; and to submit legislation to add a new category to the system: Historic Trails (e.g., the Lewis and Clark Trail). *sh*
2. Cross Florida Barge Canal: A proposal to submit legislation to deauthorize the Cross Florida Barge Canal, authorize study of the Oklawaha River as a Wild and Scenic River, and to extend the boundaries of the Ocala National Forest to further protect the river. *sh*
3. Exotic Species Executive Order: A proposal to issue an executive order restricting introduction of foreign plant and wildlife species into U.S. Exemptions are provided for pets and for desirable plants. *sh*
4. Wildlife Law Codification: A proposal to instruct CEQ, in consultation with other agencies and states, to recommend the best method to avoid overlapping and conflicting requirements. CEQ has just published a major study of wildlife law. *sh*
5. Marine Sanctuaries: A proposal to instruct the Secretary of Commerce to accelerate efforts to identify marine sanctuaries. Prior Administrations have given this program very low priority. Only two sanctuaries have been established so far. *sh*
6. Global Environment: A series of proposals to direct the State Department to review U.S. international environmental objectives and programs and report in 90 days; to instruct CEQ and State Department, working with other agencies to study world environmental conditions as a basis for reviewing U.S. policy; to direct the Secretary of State, AID, and other appropriate agencies to consider environment in developing plans and projects; and to instruct AID to pursue environmental and natural resource assistance programs. *sh*
7. Protecting the Antarctic: A proposal to submit legislation implementing the Treaty ratified several years ago with the purpose of protecting the Antarctic environment. *sh*

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8. Barrier Islands: A proposal to direct the Secretary of the Interior to develop recommendations for appropriate federal action to protect barrier islands from unwise development. *ok*

9. Environmental Review Laws: A proposal to instruct CEQ to study federal environmental review requirements and recommend measures to clarify and integrate them. *ok*

10. Alaskan Heritage: Proposed statements in general support for moving ahead with designation of parks, wildlife refuges, forests, and scenic rivers in Alaska; a promise to develop detailed recommendations in time for Congressional hearings. *ok*

11. Urban Environment: Proposals to direct the Secretary of Housing and Urban Development to expand and improve the urban homesteading program, and to direct all agencies to assure that federally funded projects are compatible with physical, cultural, and social character of communities. *ok*

12. Improved Environmental and Health Effects Research: Proposals to direct EPA to meet with industry and develop joint government-industry research efforts; and to instruct CEQ to lead an interagency task force to review environmental monitoring and data needs. *ok*

13. Improving Government Coordination: Commitments to support legislation to bring together single-purpose federal environmental and other planning programs under a comprehensive policy and to give local authorities more control over federal actions which affect the quality of life; to support changing funding of transportation programs in urban areas to provide cities with flexible choices among various modes of transportation; and to submit legislation to combine EPA's grant programs into a comprehensive program. *ok*

In addition to the proposals listed above, the draft Message includes brief statements on a number of actions which you have already taken or on which the Administration has an established position, such as the tanker initiative, the Clean Air Act Amendments, expansion of the National Park Service budget, stripmining legislation, water resources policy review, and the review of ERDA's radioactive waste management program.

WATSON COMMENT: The DOT Secretary and not the HUD Secretary should lead the effort on transportation. *agree*

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MAJOR PROPOSALS ON
WHICH AGENCIES DISAGREE

MAJOR PROPOSALS ON WHICH AGENCIES DISAGREE

1. Resource Conservation Study: This is the other item in the proposed Message that has been the subject of considerable misunderstanding. It is not a proposal for a bottle tax. It is simply a proposal to direct the Resource Conservation Committee established by the Resource Conservation and Recovery Act of 1976 to accelerate by one year the preparation and submission of a study on economic incentives for solid waste disposal which is already required by the Act. The proposal would indicate your commitment to exploring innovative economic techniques for inducing greater recycling and less use of virgin resources.

All agencies agree, except the Department of Commerce. The Department of Commerce, along with the bottling, container, and packaging industries, has expressed opposition to accelerating the study. They believe we should stick to the original two-year deadline.

Approve

Disapprove

Other

EIZENSTAT COMMENT:

Acceleration of EPA study on disposal charges, use of recycled materials, etc.

The Commerce Department is the only agency which objects to moving up the deadline for completion of this study. These objections do not seem compelling. EPA is amenable to speeding up the study, and I believe it is a good idea. The results of the study are not binding either on EPA or on the Administration. However, the sooner we have good information on the various options available for resource recovery and recycling, the easier it will be to develop positions on the various pieces of legislation, most notably the bottle bill, which will inevitably arise in Congress.

Recommend speeding up the study.

2. NEPA Executive Order: A proposal to issue an executive order directing CEQ to issue regulations in order to reform and improve the environmental impact statement review process of the National Environmental Policy Act and to achieve better implementation of that Act's underlying policies.

ISSUE PAPER ATTACHED

COMMENTS FROM WATSON, EIZENSTAT,
AND LANCE ALSO ATTACHED

Issue Paper
Environmental Message
Environmental Impact Statement Reform

1. Issues

The Council on Environmental Quality recommends reforming the environmental impact statement (EIS) process by deemphasizing paper work and emphasizing the substance of agency decisions. The disputed issues arise over the means to be used.

Since passage of the National Environmental Policy Act (NEPA) and its implementing Executive Order in 1970, CEQ has guided federal agencies in the environmental impact statement process by means of nonmandatory "guidelines" which only address NEPA's impact statement procedures and not the Act's other provisions, including the environmental policy provisions. The issues are (1) whether CEQ, in its effort to reduce paperwork and emphasize the underlying substantive policies of NEPA should elevate the status of its guidelines to regulations, and (2) whether CEQ should be authorized to issue regulations or guidelines which apply the policy provisions of NEPA to the substance of agency decisions.

2. Background

NEPA and the impact statement process have been of tremendous benefit in informing the public and in making agency programs more responsive to environmental concerns. Nevertheless, an increasing preoccupation with paperwork and procedure in the EIS process has tended to obscure the Act's underlying policies.

The authority given CEQ under the current Executive Order to promulgate guidelines is limited to the impact statement provision of NEPA (Sec. 102(2)(C)). This has resulted in guidelines which do not directly apply the environmental policy statements in NEPA. Instead, the current guidelines focus only on the "action forcing" procedures, such as the impact statement requirement, which are intended to force the agencies to take the substantive NEPA policies into consideration in the decisionmaking process. By concentrating guidelines on the EIS, production of this document often has been perceived as an end in itself rather than as a means to improved decision-making.

As a result, business and labor complain of the bureaucratic paperwork requirements. Environmentalists fear that the NEPA EIS process which they value highly is being given a bad name by the concentration of paperwork.

Additionally, the CEQ guidelines have not succeeded in preventing inconsistent court rulings. This has led to confusion and uncertainty regarding NEPA requirements and a resulting tendency to resolve uncertainties in favor of greater impact statement length.

3. Discussion - Issue #1. Guidelines or Regulations as to Agency Procedures?

CEQ and OMB agree that regulations governing NEPA procedures which would be binding on other agencies would help to:

- a. Reduce paperwork. Although CEQ's advisory guidelines are highly regarded, they have not been successful in reducing EIS paperwork. The Senate Interior Committee Oversight Report and the staff report of the Federal Paperwork Commission have both recognized the need for stronger direction from CEQ.
- b. Provide clearer guidance to courts, thus avoiding conflicting and misguided court decisions. Courts are more likely to follow regulations and not insist on unnecessary paperwork. People doing business with the federal government and the public generally would benefit from a uniform interpretation of NEPA requirements throughout the federal government.

CEQ and OMB also agree that regulations to be issued by CEQ should be circulated to and reviewed by all units of the Executive Office of the President before they are proposed.

In addition, you should be aware that, while agencies within the Executive Office of the President have on several occasions been given statutory authority to issue regulations and CEQ's authority to issue regulations in this case has been specifically affirmed by the Justice Department, the actual issuance of regulations by an EOP office has been rare. While this is a relevant consideration, neither CEQ nor OMB feels it should be dispositive.

Arguments against CEQ issuing regulations are:

- a. Guideline revisions aimed at paperwork reduction might succeed and should be tried again.
- b. It is inappropriate that CEQ have regulatory authority over other agencies' NEPA practices.
- c. Regulations might lead to more court-occasioned delays in that there would be more requirements to violate.

- d. Different agencies should have discretion to interpret NEPA differently since agency programs and missions differ considerably. This will also assist agencies in meshing NEPA's requirements with other procedures which the particular agency has. CEQ might involve itself in areas where expertise is needed which it lacks.

Discussion - Issue #2. Procedures only or Procedures and Substance?

Those using the term "substance" or "substantive requirements" of NEPA mean the national environmental policies set out principally in Sec. 101 of the Act. Many Federal agencies, CEQ, and most Courts of Appeal view these statements of national environmental policy as substantive goals which the Congress intended all Federal agencies to pursue using the procedural means set out in Sec. 102(2). OMB, most Federal agencies, and some Courts do not share this view. They believe that the statements of national environmental policy are too vague to be applied as substantive objectives for all Federal agencies under all circumstances.

CEQ believes that it should be authorized to issue regulations to implement all provisions of NEPA -- not only the procedural provisions. The authority to develop broader regulations is needed to:

- a. Prevent an undue emphasis on paperwork and procedure by focusing on other provisions of NEPA and not merely the EIS procedure. The EIS process is a means of implementing the substantive requirements of the Act and not an end in itself.
- b. Achieve a greater measure of environmental protection by ensuring that agencies do not ignore the sections of NEPA other than the EIS provisions.
- c. Ensure that the underlying policies of NEPA are recognized and achieved. 1/

1/ Ways in which regulations might be formulated to carry out NEPA's substantive requirements are the models used by the States of California and New York with their "little NEPAs" patterned on the Federal law. They state that when an environmental impact statement reveals serious environmental problems, the decision makers must in the ordinary course of events choose the less environmentally harmful alternative course of action or choose mitigation measures that will minimize the environmental harm (unless there are specific economic or social factors which override the environmental factors).

OMB and most other agencies oppose CEQ regulations extending beyond the NEPA procedural requirements because:

- a. CEQ would be authorized to impose specific environmental requirements, derived from vague and general statutory language, on the substantive programs and policies of other agencies. This could result in an undue shift of power to CEQ.
- b. CEQ regulations in this area could conflict with the more specific environmental standards and regulations appropriately established under statutes enacted for that purpose (e.g., the Clean Air Act, the Water Pollution Control Act).

4. Decision (SEE SENIOR STAFF COMMENTS ON NEXT PAGE)

1. Authorize CEQ to replace its present NEPA guidelines with regulations which cover both procedures and substance. (This is the CEQ preferred position.) 2/ ☐
2. Authorize CEQ to replace its present NEPA guidelines with regulations which cover procedures (Section 102(2) of NEPA) only. Direct CEQ to prepare an Executive order for the President to consider which would direct agencies to take steps to better implement the national environmental policy stated in NEPA. (This is the position preferred by OMB on the grounds that it is more appropriate for the President to direct agencies' substantive compliance with NEPA than for CEQ to do so. While not the CEQ preferred position, it is one acceptable to CEQ.) ☒ *Also, try to work out language EPA*
3. Authorize CEQ to replace its present NEPA guidelines with regulations which cover only procedures. No action on substance. ☐
4. Revise CEQ NEPA guidelines with respect to procedures (impact statements and other procedures of Sec. 102(2)). ☐

2/ The agencies which oppose CEQ's proposal include ACDA, Agriculture, CAB, Eximbank, ERDA, FEA, HUD, Interior, NRC, State, Transportation, and TVA. The agencies which do not oppose CEQ's proposal include CSC, EPA, Justice, NASA, NSC, Postal Service, SBA, Treasury, and VA.

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COMMENTS

1. WATSON. We strongly support Charlie's proposed Executive Order on NEPA.
2. LANCE: I strongly recommend against empowering CEQ to regulate agency head decisions on the substance of NEPA (CEQ Option #1) as it represents a significant realignment of power between the Executive Office and your agency heads in the direction of centralization. While I would not oppose your empowering CEQ to issue binding regulations covering the procedures by which agency heads must comply with NEPA (CEQ Options #2 and #3), I nevertheless call this issue to your attention.
3. EIZENSTAT:

The environmental impact statement process has gotten out of hand, and I feel, as does OMB, that there is merit to giving CEQ ability to issue regulations on the impact statement process. This should not require additional staff or resources since CEQ already has guidelines in this area. More clearly defined procedural requirements will be helpful both to the agencies and to the courts. If properly done, these regulations could help reduce paperwork considerably. However, I have severe reservations about permitting CEQ to issue regulations which go to the substance of agency decision-making. While many agencies have not paid attention to the substantive requirements of the National Environmental Policy Act, I do not think that issuance of regulations will help resolve this problem. An executive order would be more helpful.

In addition, many of the pollution control statutes directly specify the criteria for use in environmental decision-making, and another layer of regulation would make an already complicated task more difficult.

Recommend Option 2 as listed in the Warren decision memo (Guidelines replaced with regulations for procedural issues, but no regulatory authority for the substance of decisions.) Doug Costle of EPA has expressed strong preference for this option as well.

3. Non-game Wildlife: A proposal to submit legislation to provide up to \$210 million over the next five years to assist States develop improved programs for the conservation of non-game wildlife species.

ISSUE PAPER, AND COMMENTS
FROM EIZENSTAT & LANCE
ATTACHED.

Issue Paper
Environmental Message
Nongame Wildlife

Statement of Issue

Should there be a new initiative for the management of non-game wildlife?

Background

States, as trustees for wildlife unless specifically preempted by the Federal Government, manage wildlife primarily for sport or game management purposes. Most wildlife is non-game, e.g., of the 800 species of birds, only 60 are game species. Because of the concentration on game species, the conservation needs of the vast majority of wildlife species most seen and appreciated by the American public are not addressed.

Part of the existing Federal-Aid Grants to States for fish and wildlife programs (which totaled \$114M in 78) can be used for the protection of all terrestrial wildlife, but this part is primarily used by States for the benefit of game species. This is because (1) the Federal funds are derived from taxes on hunting and fishing equipment and (2) the sportsmen's groups have more influence at the State level than supporters of nongame wildlife management.

Thus, some believe there is need for a special Federal grant program to pay State costs of managing nongame species. Since 97 percent of Federal and 99 percent of State wildlife management funding is directed to game species, little is known about the status or conservation needs of the other 99 percent of vertebrate wildlife species. No complete analysis has been done to indicate to what extent a nongame wildlife management problem exists, what would be the budgetary goals of a nongame program, or what the ultimate costs would be. States now put \$325M/year into wildlife management of which \$260M are from State revenues.

Alternatives

1. Propose a nongame wildlife bill in the Environmental Message which would establish grants up to \$50M per year (\$210M over 5 years) to States for comprehensive wildlife planning and for subsequent implementation of the nongame portion of such plans (Council on Environmental Quality proposal).
2. Direct the Secretary of the Interior in the Environmental Message to study the problem and develop alternatives for managing nongame species within 120 days of the Environmental Message as part of the design for the National Heritage Trust.

3. Direct the Secretary of the Interior in the Environmental Message to encourage States to apply existing Federal-Aid funds (\$114M in fiscal 1978) to the management of all species of wildlife.

Analysis

Alternative #1. Propose a nongame wildlife bill in the Environmental Message which is complimentary to the existing Federal-State programs and would establish grants up to \$50M per year (210M over 5 years) to States for nongame species planning and for subsequent implementation of such plans (Council on Environmental Quality proposal).

Pros

- The bill can provide the comprehensive planning for wildlife which does not now exist in state programs and can serve as a model for reform of existing wildlife funding programs.
- The bill provides the funding needed to conserve and manage a much broader range of wildlife than present programs address.
- In his campaign, the President stated his support for establishing a Federal-State nongame wildlife program.
- There is strong outside support from States and the conservation community. There is no known outside opposition.

Cons

- There has not been comprehensive analysis of the goals and outputs expected from this program, nor is there a complete analysis of funds needed to attain program goals.
- A new categorical grant would be established for nongame wildlife, in addition to existing categoricals for fish, anadromous fish, game wildlife, and endangered species.
- Some Federal-Aid funds may already be used to protect nongame wildlife and Congress in 1955 amended the Federal-Aid laws in order to encourage States to apply some Federal-Aid funds toward the benefit of all wildlife.

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- Action may be premature in light of the National Heritage Trust proposal, to be developed within 120 days after the Environmental Message, which will consider consolidating existing grants in the natural, historic, and flora and fauna area.

Alternative #2. Direct the Secretary of the Interior in the Environmental Message to study the problem and develop alternatives for managing nongame species within 120 days of the Environmental Message as part of the design for the National Heritage Trust.

Pros

- Identification of the need, objectives to be served, and consideration of a new categorical wildlife grant could be merged with an analysis and consolidation of other habitat acquisition programs, and the various planning requirements and grants in the wildlife field as part of the reorganization and studies for the National Heritage Trust.
- Helps avoid precipitous action that may result from making proposals without problem analysis, definition of objectives, or budgetary analysis.

Cons

- Delay may disappoint advocates of an immediate nongame program.

Alternative #3. Direct the Secretary of the Interior in the Environmental Message to encourage States to apply existing Federal-Aid funds (\$114M in fiscal 1978) to the management of all species of wildlife.

Pros

- This approach provides Presidential visibility on the nongame topic.
- A new categorical grant would not be necessary and additional costs would be avoided.

Cons

- May disappoint advocates of a new nongame program.

- States strongly oppose this approach, believing that since Federal-Aid funds are raised by excise taxes on hunting and fishing equipment, funds should be spent primarily for purposes of game management.

Council on Environmental Quality Proposal: Alternative #1
The proposal has been cleared by all agencies but OMB.

Recommendations: CEQ recommends Alternative #1, announcement of the new \$50M/year grant program now. OMB recommends Alternative #3 as first choice. Alternative #2 as second choice.

Alternative #1

☐ Approve ☐ Disapprove ☐ Other

Alternative #2

☐ Approve ☐ Disapprove ☐ Other

Alternative #3

☒ Approve ☐ Disapprove ☐ Other

*See Stu's
recom.
J*

COMMENTS

1. LANCE. I strongly recommend against establishing a new categorical grant program to support State management of wildlife (CEQ Option #1). This proposal runs against our efforts to contain expansion of the budget between now and 1981, and is of relatively low priority in terms of need for additional Federal funding. This is demonstrated by the fact that States spend very little of their own money on this activity, and very little of the existing Federal grant funds eligible to be spent on non-game wildlife.
2. EIZENSTAT: (on next page)

3. Nongame wildlife

Nongame wildlife management has not received the same level of support as has sport wildlife. In many areas of the country these species are in poor condition. One of your campaign statements expressed strong support for an improved nongame wildlife program.

The options in the Warren memo are: commit now to \$210 million in funding over five years; defer a decision until we have developed a

National Heritage Trust proposal and link nongame programs to that program; spend no new money, but ask states to pay more attention to nongame programs. There is an alternative to these options which makes more sense to me.

This alternative approach would latch onto the wildlife law review and recodification which CEQ proposes elsewhere in the message. There is considerable duplication and overlap between existing grant-in-aid and wildlife management programs, and a review would provide insights on how this entire program could best be structured and what degree of funding is needed. This is preferable to looking at the wildlife issue in connection with the Heritage Trust program, which is not particularly relevant to this issue.

Any proposal we might make at this time would probably arrive too late in order to be considered in the FY'78 budget. I think it makes sense to review this funding request along with the FY'79 budget, even though the CEQ funding recommendation may be precisely what is needed. There are also alternative funding approaches, such as one offered by Senator Gary Hart which would finance nongame wildlife programs through a tax on outdoor recreation equipment (tents, backpacks, etc.). While Treasury has expressed problems with this approach, something might be worked out here.

Recommendation: Issue a strong statement of support for improving our nongame wildlife programs, but defer development of a specific proposal until the wildlife codification study is complete. Review the funding issue in connection with the FY'79 budget review.

OMB ANALYSIS: NEW
BUDGET COMMITMENTS

New Budget Commitments

(\$ millions)

New budget commitments with relatively clear estimates.

1. Conservation of non-game wildlife (issue)

1977		1978	
B.A.	B.O.	B.A.	B.O.
10	9	50	40

A new program providing Federal aid to assist States in developing improved programs for the conservation of State-managed non-game wildlife.

2. Local water quality planning

1977		1978	
B.A.	B.O.	B.A.	B.O.
--	--	50	50

Completion of Sec. 208 area-wide water quality planning will involve about \$50M per year in FY 1978 through 80.

3. Cross Florida Barge Canal area acquisition/study of Oklawaha as Wild and Scenic River

1977		1978	
B.A.	B.O.	B.A.	B.O.
--	--	16	16

Provided within authorized totals for the Land and Water Conservation Fund.

Total determined estimates

1977		1978	
B.A.	B.O.	B.A.	B.O.
10	9	116	106

Message items involving undetermined future budget commitments.

1. Wilderness proposals - Some small amounts may be involved for purchase of inholdings in proposed expanded wilderness system.
2. National scenic trails - Relatively small administrative costs will be associated with designation of three new trails comprising over seven thousand miles.

3. Endangered species habitat identification - Relatively small administrative costs by land managing agencies.
4. Economic penalties to support enforcement of water pollutant discharge permits - May result in significant receipts, but no reliable range of estimates can be made as they depend entirely on decisions to be made by potential polluters.

OMB ANALYSIS: NEW
ENVIRONMENTAL REGULA-
TIONS IN THE MESSAGE

Environmental Regulations Newly Endorsed
by the President in the Message

- *Page 11: Economic penalty to support enforcement of water pollutant permits. (Regulation under legislation to be proposed)
- Page 12: Strengthening Coal Mine Safety Act of 1969. (Proposed amendments to existing law and new regulations)
- Page 14: Licensing/control of recombinant DNA activities. (New legislation and regulations)
- Page 29: Requiring information from industry on impacts of offshore and onshore development. (New regulation under existing law)
- Page 33: Administrators of ERDA and EPA are to move ahead with procedures to establish environmental protection standards for all new energy technologies. (Existing law and new regulations)
- Page 51: Announces Executive Order to encourage Federal agencies to minimize impact of floods on human life and property by evaluating potential effects of Federal actions in floodplains. (Basis of additional implementing regulations)
- Page 55: Protection of remaining natural barrier islands; asking for study on proposed legislation or other action. (Potential for regulatory legislation)
- Page 62: Regulation of off-road vehicles on public land. (Amending Executive Order to strengthen protection, and mandate closure of portions of public lands under certain conditions)
- Page 67: Protecting wildlife:
- Protection from exotic organisms: develop legislation for a comprehensive approach to the problem. (Potential for new regulatory legislation)
 - Executive Order regulating introduction of exotic species. (Will be implemented by regulations)

Page 97: Executive Order authorizing CEQ to regulate
procedural and substantive requirements for all
Environmental Impact Statements. (Draft
Executive Order goes beyond Message description.
See Issue Papers)

* All page references are to the March 29 CEQ draft.